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Labor Watch

Charter Schools and Government Pensions

How Parent and Taxpayer Discontent Threatens the American Federation of Teachers

By Philip Brand

***Summary**: A growing school reform movement has the American Federation of Teachers (AFT) on the defensive, and the powerful teachers union is scrambling to justify its opposition to reforms like charter schools. But school reform may be the least of the AFT's worries: The cost of education— especially teacher pensions—threatens to overwhelm state and local government budgets, and unions may soon have a taxpayer revolt on their hands. Can the American Federation of Teachers withstand these two challenges?*

Randi Weingarten speaks at a labor rally in 2008

Waiting for 'Superman', director Davis Guggenheim's blockbuster 2010 documentary film about American schooling, concludes in dramatic fashion with the camera panning the anxious faces of students and their parents. The families, wrought with emotion, are awaiting the results of a lottery that will decide whether they receive a coveted place at a public charter school. When the results are announced the lottery winners—charter schools have more applicants than places available—are overjoyed. Those who lose are devastated.

The movie sends a clear message: parents don't want to send their children to failing and dangerous public schools, and they don't want their children taught by incompetent teachers who can't be fired because their unions protect them. The film argues that public charter schools offer an escape route to a better education—and a better life. The main obstacle: teacher unions. Guggenheim's film casts as its villain Randi Weingarten, president of the 1.5 million-strong American Federation of Teachers (AFT).

Weingarten sees it differently. She complained about the director, who also directed Al Gore's Academy Award-winning global warming screed *An Inconvenient Truth*. She called *Waiting for 'Superman'* "inaccurate, inconsistent and incomplete," and she criticized Guggenheim for making teachers the scapegoat for poor schools and educational failure. Regarding the role of teachers, many education experts believe she has a point. Education historian Diane Ravitch writes of *Waiting for 'Superman',* "The movie asserts a central thesis in today's school reform discussion: the idea that teachers are the most important factor determining student achievement. But this proposition is false." Ravitch's assertion is buttressed by studies showing that teachers account statistically for perhaps 10 to 20 percent of overall student achievement. While the teacher may be the most important factor within a school, non-school factors such as whether a child lives with two parents, a single parent or no parent at all have a much greater impact on student achievement.

Of course, pointing to non-school factors is no defense of poor schools or poor teachers. Guggenheim rightly notes that demonstrably bad teachers take advantage of rigid tenure rules in their union contracts so that it is almost impossible for public schools to fire them. By contrast, charter schools enjoy greater freedom and flexibility in the employment and placement of teachers. Most charter schools are non-union and many offer a superior education.

Supporters say charter schools have the potential to transform the structure of American schooling. The scholar Walter Russell Mead calls the fight for charter schools "one of the most important fronts in the struggle to build an America that can thrive in the 21st century." He argues that charters shift power "from functionaries in City Hall to community based educators who organize themselves into small, accountable units to carry out functions once handled by massive bureaucracies." This shift of power to the local level not only allows parents to hold schools more accountable but, says Mead, improves the quality of the teaching workforce. Charter schools make educators responsible for the success of their students—and thus the survival of their jobs. That's a major difference from schools where educators receive tenure for life.

The late Albert Shanker, the best-known AFT president, was once an early and vocal supporter of charter schools (until he realized how they could undermine his union). But today it should come as no surprise that the AFT staunchly opposes the charter school movement. But as charters grow in popularity and laws are changed to allow their creation in states and cities, the union is beginning to change its tune. Education reporter RiShawn Biddle writes that teachers unions have adopted a new strategy: "Strike a deal—oppose the schools but unionize their teachers." (*Labor Watch*, March, 2010).

In New York, that's just what's happening. The union recently shocked education reformers when it successfully organized teachers at a Brooklyn charter school run by the Knowledge is Power Program (KIPP), the nation's most-prominent charter school operator. Last year the AFT's New York affiliate successfully lobbied the state legislature to kill an effort to abolish a law capping at 200 the number of charter schools allowed in the entire state. However, at the same time, the United Federation of Teachers, the AFT local in New York City, runs two unionized charter schools.

Indeed, it is the union's success in organizing charter teachers that helped propel Randi Weingarten from president of the AFT local in New York City to the presidency of the AFT. Soon after her election Weingarten told the *New York Times*: "You're going to see far more union representation in charter schools."

Consider the AFT's new "Innovation Fund," which Weingarten unveiled last year. The Fund makes grants to local union initiatives, many of which genuflect in the direction of school choice. For instance, teachers in Austin, Texas received AFT grants to convert several schools into "inter-district charters," while the Minneapolis Federation of Teachers received support to become an authorizer of charter schools in the state of Minnesota.

The AFT Innovation Fund received an initial \$3.3 million in support from five of the nation's largest foundation philanthropies: the Eli and Edythe Broad Foundation (assets: \$1.3 billion), the Charles Stewart Mott Foundation (assets: \$2.1 billion) the Carnegie Corporation of New York (assets: \$2.4 billion), the Ford Foundation (assets: \$10.7 billion), and the Bill & Melinda Gates Foundation (assets: \$34 billion). This unusual collaboration of a labor union and philanthropic foundations prompted a Newsweek story, "Gates and Weingarten: Fixing Our Nation's Schools" (Dec. 10, 2010).

Will the American Federation of Teachers really get behind charter schools? Skeptics think this is not a useful way to understand the union's activities. Instead, the AFT approach to charter schools suggests that it is self-serving, designed to assuage public

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criticism and organize what you can't suffocate. Like other unions, teacher unions exist to promote their own interests.

Make no mistake: charter schools threaten union prerogatives and weaken union power. They institutionalize the public's discontent with the way public schools are organized and funded, and the way teachers are hired and kept on the job. The creation of a charter school movement and the growth of charter schools is bad news for teachers unions.

Public Sector Unions: Islands of Privilege

As parents watch their kids struggle in school and read about the rising tide of government red ink it's inevitable that they will ask questions about whether the cost of public schools justifies the results produced by their taxpayer-funded employees.

"Across the nation," *New York Times* reporter Michael Powell has written, "a rising irritation with public employee unions is palpable, as a wounded economy has blown gaping holes in state, city and town budgets, and revealed that some public pension funds dangle perilously close to bankruptcy. In California, New York, Michigan and New Jersey, states where public unions wield much power and the culture historically tends to be pro-labor, even longtime liberal political leaders have demanded concessions — wage freezes, benefit cuts and tougher work rules."

According to a January 21 release from the Bureau of Labor Statistics, 2009 was the first time in American history that the number of workers in public sector unions exceeded the number of workers in private sector unions. Last year 7.6 million public sector employees belonged to a union, compared with 7.1 million union workers in the private sector. Unions today represent only 6.9 percent of the private sector workforce, a steep fall from the unions' heyday in the 1950s, when 36 percent of the labor force was unionized. In the 1950s, the percentage of public sector employees represented by unions hovered in the single digits. Today, the numbers are reversed. Public sector unions have grown rapidly since the 1960s and currently represent 36.2 percent of public workers. The face of American unionism is no longer the steel worker or the coal miner. Now it's the government staffer, the state trooper and most of all, the public school teacher. Teachers unions claim 4.7 million members, a majority of all public sector union members.

In the private sector union organizers battle with management to extract higher wages and benefits for workers. The relationship is "explicitly adversarial," writes journalist Michael Barone. Over time, the premium extracted by a union puts the employer at a competitive disadvantage—think of the big three auto companies—and the result is apparent: "adversarial unionism made it much, much harder for Detroit to produce high-quality vehicles than it was for non-unionized companies," notes Barone.

Public-sector unionism, by contrast, is not adversarial but collusive. "Public-sector unions strive to elect their management, which in turn can extract money from taxpayers to increase wages and benefits -- and can promise pensions that future taxpayers will have to fund," writes Barone.

It may take longer to be noticed, but dense public sector unionism has the same deleterious effect on states as private sector unions have on Detroit car companies. "States such as New York, New Jersey and California, where public-sector unions are strong, now face enormous budget deficits and pension liabilities." Barone concludes: "In such states, the public sector has become a parasite sucking the life out of the private-sector economy."

Growing numbers of Americans see labor unions in this harsh light. Financial columnist James Surowiecki notes, "In 2009, for the first time ever, support for unions in the Gallup poll dipped below fifty per cent. A 2010 Pew Research poll offered even worse numbers, with just forty-one per cent of respondents saying they had a favorable view of unions, the lowest level of support in the history of that poll." Behind the dropping numbers, Surowiecki writes, is the feeling that public union workers have been held harmless against the economic crisis that has devastated so many private sector workers. Randi Weingarten is all-too aware of the change in public opinion. "Only 7 percent of American workers are in unions," the AFT president acknowledges. "America looks at us as islands of privilege."

Teacher Pensions: The Numbers Don't Balance

Nowhere is that privilege more apparent than when it comes to retirement. Public school teachers are covered by defined-benefit retirement plans, meaning that teachers are promised a specific cash payout each month after they retire. In principle, it's not unlike Social Security: teachers and the government employer set aside money from each paycheck to be deposited in teacher pension funds. The funds are expected to grow over time so teachers can tap into them when they retire.

This kind of retirement system once seemed like a good idea but it is set up to be manipulated and compromised. Over the years, union negotiators have extracted ever more lucrative contracts for teachers, and the politicians have promised ever larger pensions in lieu of, or in addition to, teacher pay hikes. In the past the obligation to pay the pension has always been in the future—when it's another politician's problem.

But the future is now. State governments have created massive unfunded teacher pension liabilities because they have contractually promised more benefits than they set aside money for. And it's not helped that governors often raid pension funds to pay for more immediate government projects. According to their own financial reports, state and local governments have an unfunded liability to teachers of about $332 billion. That's the gap between the assets currently set aside in pension plans, and the present value of pension payouts that have been promised to teachers.

Many outside analysts think the self-reported $332 billion number is far too low. Education expert Andrew Rotherham pegs the total unfunded liability at $500 billion. In a report for the Manhattan Institute and the Center for Educational Choice, Josh Barro and Stuart Buck calculate the number at closer to $933 billion. They studied the 59 pension funds that cover more than 9 million active employees and 4 million retirees, including almost every public school teacher in America, and found that all face serious shortfalls.

The vast discrepancies are mostly differences in accounting. A defined-benefit teacher pension sets aside only a fraction of the promised benefit and counts on projected growth over decades to make up the difference. When calculating how much money to set aside for pension plans, state governments "discount" the cost of paying benefits in the future because they make assumptions regarding the anticipated increase in the money they invest for the pension beneficiaries. The discount rate they select has typically been eight percent, which means state governments are "assuming that their investments will appreciate at about 8 percent per year for an indefinite period," write Barro and Buck.

But that has proven to be an unrealistically high assumption. Unlike public plans, most private-sector pensions use a discount rate of about six percent. "If the same standards that govern private-sector pension plans are used," Barro and Buck find, "…actual financial liabilities for public school teacher pension plans are approximately $933 billion, which is close to triple the official estimate."

By choosing an unrealistically high discount rate, state governments have kicked the can of fiscal reckoning down the road. The high discount rate, write Barro and Buck, "permits public officials to contribute fewer dollars toward satisfying these plans' obligations, and thus to avoid taking the cautious but unpopular step of raising taxes or cutting services." The situation is a fine example of what the economist Gordon Tullock has called a "transitional gains trap." That's where an unsustainable government program intended to benefit one interest group is maintained because the cost of terminating it would "lead to large losses for the entrenched interests."

The unanswered question is: What happens when the numbers just won't add up? Won't politicians have to make tough choices when education funding competes with teacher retirees for scarce dollars? For instance, because the New York state constitution mandates pension contributions, former New York governor David Paterson was forced to borrow nearly $6 billion to help make up the required annual payments to the state pension fund. But the governor's solution only made matters worse. Writes New York Times reporter Danny Hakim, "In classic budgetary sleight-of-hand, they will borrow the money to make the payments to the pension fund — from the same pension fund."

In New York, as in other states, accounting gimmicks may no longer be enough to paper over the problem. New York is not the state in the worst financial situation—that dubious honor likely goes to California, followed by New Jersey—but it has all the ingredients for a fiscal mess: high taxes, dense unionism, growing deficits and looming unfunded healthcare and retirement liabilities.

New York's Bad Example

What sets New York apart is its unusually powerful unions. The Bureau of Labor Statistics report finds that New York has the highest union membership rate. 24.2 percent of New York workers are members of labor unions. As Megan McArdle reports in the Atlantic, in New York "feisty public-sector unions enjoy extremely favorable laws governing their collective bargaining. Under one provision, if a collective-bargaining agreement expires, the provisions of the old contract stay in effect until a new one is negotiated, including 'step up' provisions that automatically increase wages. This means the unions have no incentive to agree to a contract less lucrative than the one they already have."

It's no coincidence that New York is also the soul of the American Federation of Teachers. A plurality of all AFT members live and work in the state. The AFT claims 1.5 million members, and its 2010 Labor Department disclosure form reports that there are 887,000 members in the national union (which has $115 million in assets, $223 million in receipts and nearly $19 million spent on lobbying and political activities.) The New York State United Teachers, the AFT local that represents public school teachers in New York, has 573,000 members. It has $117 million in assets, $218 million in receipts and spends $10 million on lobbying and politics.

The current economic downturn has worsened New York's precarious financial situation. According to a report from the Empire Center, New York's public sector pension funds lost a collective total of more than $109 billion, or nearly a third of their assets, between 2007 and 2009. Meanwhile in the past 10 years the number of pension fund retirees and other beneficiaries has increased by 20 percent and total pension benefit payments doubled.

It may be dawning on New Yorkers that they have a problem. Newly-elected Governor Andrew Cuomo, a Democrat, campaigned on a promise of budget cuts without tax increases. As New York's attorney general, he had investigated public pensions that he said were getting out of hand. Cuomo has This is "about numbers," Cuomo has said. "There's no Democratic or Republican philosophical dispute here. The numbers have to balance, and the numbers now don't balance … It's painful, but it is also undeniable."

Still, Cuomo knows the road ahead is studded with massive union roadblocks. As Megan McArdle reports in the *Atlantic*, Cuomo himself has explained how the process has worked in New York: "The governor announces the budget; unions come together, put $10 million in a bank account, run television ads against the governor. The governor's popularity drops; the governor's knees weaken; the governor falls to one knee, collapses, makes a deal." It's not surprising that over the past decade, New York's government spending has grown almost twice as fast as personal income.

Randi Weingarten has appointed an AFT pension task force to study the issue of pension funding, but the union has already declared that it is dedicated to strengthening the existing defined-benefit pension system. The union issued a call urging its affiliates "to support policies that encourage creation and retention of the defined-benefit pension plans." Or in the words of the AFT local in New York: "Retirement can be a rich and fulfilling time. New York State United Teachers works hard to ensure that retired members can enjoy what many affectionately call their second career." Second career? Small wonder the public is fed up.

Teacher Unions: Beginning of the End?

The teacher union prognosis is not good. Taxpayers across the country are awakening to the need for fiscal belt tightening. In many states they have elected leaders who have committed, or at least have made campaign promises, to reduce public employee benefits and to balance their budgets. And this is occurring at the same time that the number of non-union charter schools is increasing, gutting the teacher unions' contention that public school teachers must be unionized for schools to be effective.

Education spending has nearly tripled since 1970, but, reports *Time* magazine, "the golden age of school spending is likely coming to an end." A recent Cato Institute conference, "How Public Schools are Drowning State and Local Budgets," called school spending "the most important state and local spending issue of 2011…and many years to come." About a third of the $787 billion in federal "stimulus" funds went directly to state and local governments to bolster public sector unions, including $100 billion sent directly to schools. As this stimulus money runs out state budget shortfalls will become more acute.

Stimulus money saved thousands of public sector union jobs, but, ironically, it may have turned the public against unions. When federal stimulus money poured in to protect public employee union jobs, writes Michael Powell in the *New York Times*, "it accentuated the perception that public workers, however tenuously, inhabited a protected class."

There are other tangible signs that public sector union growth may be coming to an end. In the 2000s, public sector unions added 508,000 members, an increase of 9.2 percent. But the Bureau of Labor Statistics notes that union membership overall declined by 612,000 from 2009 to 2010, and the decline included a 273,000 member drop in public sector union membership, a first in modern times. Public sector union leaders aren't happy about this, and that means a new political fight is brewing. According to the Economist magazine, "Industrial relations" is back as a policy issue.

Even though they are suffering from fewer union members and more public disapproval, teacher unions remain a massive and powerful force in politics. Recently two groups compiled what they said was the first ever database of big givers' political giving. It combines both state and federal-level giving to candidates, parties and ballot initiatives. The report from the Center for Responsive Politics and the National Institute on Money in State Politics is available at opensecrets.org.

The report finds that the #1 top political giver during the 2007-2008 election cycle was the National Education Association (NEA), which gave $56.2 million to state and federal political campaigns ($2.7 million to federal candidates and $53.5 million to state candidates and campaigns). The AFT ranked 25th, contributing $11.3 million. A combined NEA-AFT entity cited $3.5 million in political gifts. It was ranked 116rd. Teacher union expert Mike Antonucci reports, "Just to put this in perspective, America's two teachers' unions outspent AT&T, Goldman Sachs, Wal-Mart, Microsoft, General Electric, Chevron, Pfizer, Morgan Stanley, Lockheed Martin, FedEx, Boeing, Merrill Lynch, Exxon Mobil, Lehman Brothers, and the Walt Disney Corporation, combined." (Interestingly, six of the top eleven political givers were Indian tribes and/or gaming interests.)

Teacher Unions At A Tipping Point

When they are considered in isolation, the growing pension crisis and the expansion of charter schools may appear to be separate events. Together, however, these two trends are leading many Americans to fundamentally rethink the role of teacher unions. Taxpayers read about platinum retirement and benefits packages for public employees that private sector employees will never enjoy. And parents see nonunion charter schools outperform traditional public schools.

Demography is destiny. Union membership is highest among older workers (16.6 percent), and it declines with each age bracket. The lowest percentage of union members is among workers aged 16 to 24 (4.7 percent). In the long run, suggest Robert Costrell and Michael Podgursky in a recent report in the journal *Education Next,* union rigidity "may exacerbate the challenge of attracting to teaching young workers."

The American Federation of Teachers continues to advocate for its members. But the teaching profession is changing, and the AFT may soon discover that good teachers don't need it to find good jobs and don't want its representation. The AFT is dangerously misreading the forces opposed to it if it imagines that its lavish political spending will enable it to survive the current fiscal crisis without giving an inch.

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LaborNotes

John J. Sweeney, longtime labor leader and president emeritus of the **AFL-CIO**, on February 15 became a recipient of the **Presidential Medal of Freedom** alongside such luminaries as poet **Maya Angelou** and former president **George H.W. Bush**. That Sweeney would receive any medal with the word “freedom” in the title, let alone the nation’s highest civilian honor, is laughable, considering that he is a leader of a labor movement that has championed legislation restricting freedoms, like Obamacare and card check. But then, back in the 2008 presidential campaign the AFL-CIO endorsed Obama and pledged to deploy $53.4 million to secure his election. That’ll buy you a “Medal of Freedom.”

Let’s say **Chrysler** reported 4th quarter losses of over $650 million. Let’s next say that, in spite of the remarkable fiscal mess, the car maker nonetheless planned to give its **United Auto Workers** (UAW) members bonuses averaging an estimated $750. How to explain this apparent inexplicable contradiction? If you said “because the UAW currently has 63.5 percent ownership stake in Chrysler,” then congratulations - give yourself a bonus.

Transportation Security Administration (TSA) chief **John Pistole** has decided to give some 40,000 TSA screeners collective bargaining rights regarding “non-security employment issues,” such as shift scheduling and vacation time. Some lawmakers are worried that even this partial unionization will jeopardize air-travel security. Rep. **Darrell Issa** (R-CA), chairman of the **House Committee on Oversight and Government Reform**, wrote pointedly to Pistole, “I am concerned that due to your change in policy, TSA may need union approval to sign off on critical and swift adjustments to airport security protocols.” The concern is not a trivial one. From March 9th to April 19th, the **American Federation of Government Employees** and the **National Treasury Employees Union** will compete in an election for the right to represent TSA workers. A loss for both would be a tremendous win for America’s weary air commuters - let’s keep our fingers crossed.

The official unemployment rate fell 0.4 percent in January to 9 percent, ostensibly good news. However, **Mort Zuckerman** reminds us in *US News & World Report* that: “Not since the government began to measure the business cycle has a deep recession been marked by such high levels of unemployment and underemployment, and followed by such anemic job growth. More jobs were lost in the recession of 2007-09 than in the previous four recessions combined.” Zuckerman adds, “Altogether, the 9 percent headline figure is an illusory portrait of the situation across the country, representing 13,863,000 men and women out of work. What happens if you add to that the 8.4 million ‘involuntary’ part-time employed, whose hours have been cut back? Then you get a household unemployment rate slightly under 17 percent.”

Is American football in jeopardy? Maybe: The current labor agreement between owners and the **National Football League Players Association** (NFLPA) gives players 60 percent of NFL revenues. But owners have decided to exercise the “opt out” clause of this agreement when it expires in March, claiming it doesn’t properly account for stadium construction and other expenses. The players’ union, not surprisingly, is perfectly happy with its 60 percent slice of the $9 billion NFL pie, and would like to see the current agreement continue. Owners are reportedly prepared to lock out players; union reps are prepared to decertify their union if that happens, which would allow them to sue the owners. As a result, odds makers have said there is a 70 percent chance of the first NFL work stoppage in 24 years. The stakes are high, and not just for NFL fans and players -- a season-long work stoppage could result in $160 million in lost economic activity and 3,700 lost jobs in each NFL city, according to an analysis commissioned by the NFLPA.

The public backlash against public sector unions continues apace. But unions, including the two million-strong **Service Employees International Union** (SEIU) ,are planning a major PR push to “recruit members and counter political pressure on public-sector unions,” according to an internal memo reviewed by the *Wall Street Journal.* Considering that nearly half of its members work in the public-sector, the SEIU stands to lose big if governors and voters continue to turn on public-sector unions. Supporters of the free market should take heed – unions have always been most dangerous when they have felt most threatened.